

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MEDTECH PRODUCTS INC.,
90 North Broadway
Irvington, New York 10533

Plaintiff,

v.

POWER PRODUCTS, INC.
d/b/a SPLINTEK,
3325 Wyoming Street
Kansas City, Missouri 64111

Defendant.

Civil Action No. 07 CV 3305 (SCR)

DECLARATION OF EUGENE P. ERICKSEN

I, Eugene P. Ericksen, pursuant to 28 U.S.C. § 1746, declare and say as follows:

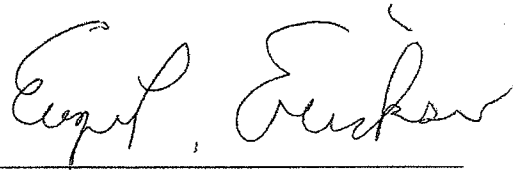
1. My name is Eugene P. Ericksen. I am a Professor of Sociology and Statistics at Temple University. I also serve as a Special Consultant with NERA Economic Consulting. I am over the age of 18 and have personal knowledge of the facts and circumstances discussed herein. I submit this declaration in support of Medtech's Motion for Preliminary Injunction.

2. I was asked by Prestige Brands Holdings, Inc., and Medtech Products, Inc. to design and administer a survey to measure consumer recognition of the product name NIGHTGUARD. I wanted to know whether consumers of dental protectors had heard of NIGHTGUARD and whether they recognized NIGHTGUARD as a common name or brand name.

3. The survey data were collected between April 30, 2007 and May 5, 2007. The survey results indicate that 66 percent of respondents had heard of NIGHTGUARD. Of respondents who had heard of NIGHTGUARD, about 67 percent identified the term as a brand name. Based on these results, it is my opinion that NIGHTGUARD is a phrase associated with a particular brand and thus is not a generic term. A true and correct copy of the report of the survey is attached hereto as Exhibit AA.

I DECLARE UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATED THIS 23 DAY OF MAY, 2007.

A handwritten signature in cursive script, appearing to read "Eugene P. Erickson", written in dark ink.

EUGENE P. ERICKSEN